

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WAYNE K. TATE,

Plaintiff,

Case No. 10-14107

HON. BERNARD A. FRIEDMAN vs.

MAG. JUDGE LAURIE J. MICHELSON

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

_____ /

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Magistrate Judge Laurie J. Michelson's Report and Recommendation ("R and R") dated November 18, 2011, recommending that the Court grant in part Plaintiff's Motion for Summary Judgment, deny Defendant's Motion for Summary Judgment, and remand the decision of the Commissioner. Neither party has filed an objection to the R and R.

Magistrate Judge Michelson concluded that substantial evidence does not support the ALJ's finding that examining physician Andriacki described Plaintiff as capable of sedentary work. To that extent, it is recommended to this Court that summary judgment be granted in part in Plaintiff's favor, in order to further review Dr. Andriacki's findings. This Court has had an opportunity to fully review this matter and the parties' filings, and believes that the Magistrate Judge has reached the correct conclusions for the proper reasons.

ACCORDINGLY:

IT IS HEREBY ORDERED that Magistrate Judge Laurie J. Michelson's Report and Recommendation dated November 18, 2011, is hereby accepted and adopted.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment is GRANTED IN PART.

IT IS FURTHER ORDERED that pursuant to 42 U.S.C. § 405(g), the decision of the Commissioner is REMANDED, and that on remand, the ALJ is to treat Dr. Andriacki's sitting and standing limitations as inconsistent with the requirements of sedentary work, and evaluate all the functional limitations Dr. Andriacki provided against the other evidence of record.

Dated: December 14, 2011
Detroit, Michigan

_____/s/Bernard A. Friedman_____
BERNARD A. FRIEDMAN
UNITED STATES DISTRICT JUDGE